

Board of Selectmen  
Approved Minutes of May 14, 2012

PRESENT: Richard Griffin, Chairman  
Richard Nichols, Vice Chairman  
Michael Pierce, Selectmen  
Ben Moore, Selectmen  
Philip Bean, Selectmen  
Frederick Welch, Town Manager

7:00 PM Public Meeting – Selectmen’s Meeting Room, Downstairs Town Offices

SALUTE TO THE FLAG

I. Public Comment Period

Mary Louise Woolsey mentioned that last week Mr. Moore was commenting on minutes from non-public sessions and the process of reviewing sealed minutes to see if they should be unsealed after a certain amount of time. She shared an article from the paper in regards to the Right to Know lawsuits that a woman in Deerfield brought to court, and the Supreme Court’s ruling in favor of her. She read the part of the ruling that caught her eye. She expressed concern with the fact that when she was on the Selectmen website she found very few copies of minutes from non-public meetings dating all the way back to 2008. Chairman Griffin assured her that they would be discussing this tonight.

Diandra Sanphy, 34 Langdale Drive, clarified with Mr. Welch that the Town lines have been marked within the 7-year guidelines. In regards to the purchasing policy, she thinks it is a good policy. She expressed concerns with placing numbers on this policy and that we are going to start to get into trouble if this is done. She does think it is important to keep the public informed as they have been doing when the bidding process is not being followed. .

II. Announcements and Community Calendar

Mr. Pierce brought up once again that the Recycling Committee is a few members short and the importance of volunteering in your Town.

Mr. Moore announced that the Garden Club would be holding their annual plant sale this Saturday the 19<sup>th</sup> from 9 am to 2 pm in the parking lot here at the Town Hall. There is also a Historical Society walking tour this Saturday, for information call 929-0781.

Mr. Bean announced the open house/old fashion picnic at Depot Square on Memorial Day May 28<sup>th</sup> from noon to 2 pm.

III. Appointments

1. Michael Schwotzer – Appointment next week
2. Edward Tinker
  - a. 28 Property Tax Abatements

Mr. Tinker explained that two abatements have been removed for the time being and there are 26 abatements totaling \$11,117.02.

#### Discussion

Mr. Moore did a sum and came up with \$10,226. Mr. Tinker apologized his total could be including something that did not get into this batch.

Mr. Pierce has some questions that will probably need to be discussed in non-public about some of the other abatements. Mr. Bean would echo Mr. Pierce's comments about some issues that need to be discussed in a non-public at a later time determined by the Board.

Mr. Nichols has no questions on the abatements but would suggest moving the first half tax warrant forward since Ed is here.

Chairman Griffin agreed.

Mr. Moore asked for the status of the 2008 to 2010 sewer abatement adjustments that they discussed a few weeks ago. Mr. Tinker informed the Board that they are still working on the list and it is quite a list. They are probably half way through the list and he hopes to have the final list complete sometime this summer.

Mr. Moore brought up a few abatements having to do with central air being added to a property and he wonders if there is a communication channel in place to close loopholes like this. Mr. Tinker explained how the system in 2009 was not operating to its capacity and things could be missing. Mr. Tinker summed up that they are working to bring the database up to date.

Mr. Nichols asked if Mr. Moore was asking if there is a problem with people not getting permits to put in central air and other things like that. Mr. Moore does think that when a building permit is taken out, that that information needs to be brought to the Assessing Department to be entered into the database. Mr. Nichols thinks that it is important for people to comply with the rules especially on the larger items. Mr. Nichols pointed out that if the Assessing Department is to find that an addition has been put on a property it is important that they follow up with the Building Department to see if a permit was pulled.

Mr. Moore assumes that they have some sort of recourse if a permit was required and not applied for. Mr. Tinker stated that the process is much better now and they get weekly updates on permits from the Building Department. Mr. Pierce expressed concern that sometimes a permit may be pulled but the work might not be done. Mr. Tinker stated that they get the permit when it is completed along with the weekly updates he mentioned above. There was an additional discussion on how a building permit expires after a year and its renewal is the responsibility of the property owner listed on the permit.

Mr. Moore MOTIONED to APPROVE the 26 Property Tax Abatements with the recommendations of the Assessor. Mr. Pierce SECONDED.

VOTE: 5-0-0

New Business – Moved forward

## 1. First Half Tax Warrant

Mr. Tinker presented the Board with the First Half Tax Warrant in the amount of \$24,370,028.70. The first half tax warrant is based on 2011 tax rate; half of it is applied to the first tax bill. The values are the 2011 assessments as of April 1<sup>st</sup> and is based on any changes that have taken place. The taxable value used is this warrant, indicates about a \$20M increase from last year. He discussed the MS-1 that is done in the Fall and the impact it would have on the tax rate for 2012.

### Discussion

Mr. Nichols asked that if a property has not made any changes, would then the value would remain the same, and the tax bill will be exactly 50% of the 2011 bill. Mr. Tinker confirmed that to be true. Any increases in the value of the property will also be reflected on the tax bill. If the bill is not paid by the due date, the property owner will pay an interest rate of 12%.

Mr. Pierce MOTIONED to Approve the First Half Tax Warrant. Mr. Griffin SECONDED.

VOTE: 5-0-0

## IV. Approval of Minutes

April 16, 2012(NP)

Mr. Nichols MOTIONED to APPROVE the Minutes of April 16, 2012 as submitted. Mr. Pierce SECONDED.

VOTE: 5-0-0

April 30, 2012

Page 2, 3<sup>rd</sup> paragraph, 12<sup>th</sup> line – change the word “pile” to “class”

Page 3, 2<sup>nd</sup> paragraph, 3<sup>rd</sup> line – change the figure amount from “\$1,000” to \$4,000”

8<sup>th</sup> paragraph, first line – change “herself” to “Dyana”

Page 8 – 9 various references – change “UDFB” to “UFB”

Page 9, 12<sup>th</sup> line – insert the word “not” before the word “create”

Page 12, 4<sup>th</sup> line – insert the following words after the word purpose “of the ‘HBAC”

Mr. Nichols MOTIONED to APPROVE the Minutes of April 30, 2012 as submitted. Mr. Pierce SECONDED.

VOTE: 5-0-0

May 01, 2012(NP)

Mr. Moore MOTIONED to APPROVE the Minutes of May 01, 2012 as submitted. Mr. Griffin SECONDED.

VOTE: 5-0-0

### Discussion

Mr. Moore stated that Mr. Welch has provided them with a list of the sealed minutes from non-public meetings going back to 2007. He wonders if the Board would like to discuss these minutes at their non-public meeting tomorrow. Mr. Nichols feels that they need a little

time to review them before making any decisions. Mr. Welch will give copies of the minutes to the Selectmen tomorrow. Mr. Moore would suggest that this be put on the agenda for next week.

#### V. Town Manager's Report

1. The licensing of Dogs was due April 30<sup>th</sup>. If you have not registered your dog, please do so with the Town Clerk as quickly as possible.
2. Saturday, May 19<sup>th</sup> from 8AM to 12 Noon there will be a Household Hazardous Waste Collection at the Old Hampton Court House, Winnacunnet Road. Flyers are available at the Town Hall describing the materials that may be disposed off at the Collection. The list includes items that will be charged for.
3. On your consent agenda tonight, you have a request for a special 3-day yard sale for the Boy Scouts. I have checked with the Building Department and there is no objection. This event funds their program for a year. However, he has received one objection.
4. I am awaiting a report from DPW on the State Liquor Stores sewer billing. The metering has been installed, and appropriate readings are being taken to determine actual usages. DPW has the information and is recalculating the previously issued billings to determine the sums due the Town.

#### Other Items

He has received from Town Counsel an Assignment of Lease for 5 Epping Ave. This deals with an inheritance of a land lease, and meets all the requirements for any new lease contained within it and has been probated. They are looking to get it signed so they can close the probate. This is the only thing outstanding and it has been reviewed by counsel.

#### Discussion

Mr. Pierce does not understand why the Boy Scout is an issue and wonders if they are going to have the yard sale or not. Mr. Welch believes that they are going to have it and reiterated that this is an annual event and the Town has never issued a permit in the past. The location is at the Masonic Lodge. One of the problems this year is that they want to hold it for three days, the limit for a yard sale permit under Zoning is two per year, and they must be held separately with a certain period in between. The Board agreed that this item should be removed from the consent agenda and that they may want to look at this zoning use a little closer.

Mr. Moore pointed out that the yard sale permit policy was adopted by the Board of Selectmen but was using another statutory authority to adopt those rules and that is Mr. Welch's understanding. According to Mr. Welch, the policy they adopted on yard sales was dealing with traffic control.

Mr. Moore confirmed with Mr. Welch that the inheritance of leased land on Epping Ave is subject to the 2%. Mr. Welch explained to the Board that the original owner attempted to deed this property prior to his death, but that was not allowed and he explained why. Once the property owner passed away it was probated to the two individuals it was originally deeded to, and one has filed a request to remove their self from the inheritance and the other one has accepted the inheritance. This is the only portion of the inheritance that is still outstanding.

Mr. Moore asked about the charges for items brought to the Hazardous Waste event on Saturday and he wonders if this is something new

Mr. Welch read the list of items that would be charged. Mr. Pierce pointed out that florescent bulbs can be brought to Home Depot and some other items can be disposed at the Good Will for free. Mr. Nichols pointed out that they will not take latex paint but if you let it dry up it can be taken as trash.

Mr. Nichols wants to check on the status of the DRED MOU and to preface his question, he shared with the Board how there was a meeting today up at the State Park with DRED and it was indicated that the MOU was back with the Selectmen.

Mr. Welch stated that the MOU has not returned to him as of yet but he will follow up on the location of the MOU. Mr. Nichols brought up a document that was provided to the Board by State Parks for the Boards comments about a month ago and he wonders if the Board has commented on this yet.

Mr. Welch reminded the Board that they did discuss this and he contacted Phil Bryce and shared some of the concerns with fines and a few other issues. Mr. Bryce did tell Mr. Welch that the fines were what he thought are to be the maximum fine and Mr. Welch explained why this was the case. Mr. Nichols reminded everyone that the Board had a fairly length discussion on this at the time and he thinks that they should send in some form of response in writing.

Mr. Bean commented that what Mr. Nichols is referring to is 7300 and he added that Department Heads would need to jump on this also since there are enforcement issues. Mr. Welch has spoken to the Police Chief and if the fines are not increased, the amount would not cover the costs to pay the department for sending an officer to court for an hour.

Mr. Bean thinks that it should also to be sent by the Precinct, the Chamber of Commerce, and HBAC. They discussed the fine for overdue meters and Mr. Welch shared the way that the State is informed when a meter expires and how someone immediately goes out to make sure you have left.

Mr. Nichols pointed out that the State is charging for meters starting April 1<sup>st</sup> however if you read the sign on the machines it states that they will be charging year round. He expressed concerns if this is true and they plan to charge year round. He thinks it is important for the Town to get an answer from the State as to whether or not they plan to enforce this and charge year round. He thinks it is important for the State to be very clear on this for the residents of Hampton.

## VI. Old Business

1. 2012 Selectmen's Goal
  - a. Purchasing Policy

Mr. Nichols stated that last week Mr. Moore made a comment about the objective itself being complicated and Mr. Nichols has rewritten this and he read it for the Board.

Mr. Moore had done some notes of possible suggestions, which were distributed to the Board. He also shared some samples of policies from 10 other communities that he found on the LGC website.

Mr. Pierce is of the feeling that generally speaking, the policy in place is pretty solid. The only thing he might consider if others agree, that some of the values are on the low side they might want to increase them. Other than that he is stuck to three bids for anything significant and go from there.

Mr. Moore brought up the professional services section and how a lot of the 10 policies he shared with the Board exempted professional services from the bid process. Mr. Moore knows that legal services are exempt; he asked Mr. Welch if this is true of engineering services at DPW. Mr. Welch explained that if they apply for any Federal or State funds they cannot bid for professional services by law. Mr. Welch explained how this is done and it is a complicated process compared to bidding items like trucks. This is one of the reasons State and Federal agencies do not want you to go through this process.

Mr. Nichols thinks engineering consulting work where Federal money is involved is a problem and it is not addressed in the Town's policy currently and he thinks it needs to be. Mr. Nichols believes when there is a defined scope and no federal funds are involved we should be going out to get three bids. This does not mean he thinks we should always go with the low bidder and he explained in further detail the benefits of having the competitive bids. Having said that to Mr. Moore's point that the Board of Selectmen should have the authority to waive the bid process and he does not have a problem with that. He thinks that is a positive step but there should be a certain threshold set and based on input from Mr. Welch and the Department Head the Board can waive the bid process. The limit may be \$50,000 but if there is a request for a larger amount (for anything not just engineering) he thinks the following should be done before waiving the bidding process: one something written on paper as to why the Board is waiving the process and second maybe something a little more than a majority vote maybe something like 2/3<sup>rd</sup> vote.

Chairman Griffin is opposed to the 2/3<sup>rd</sup> majority vote. Mr. Nichols is not hung up on the 2/3<sup>rd</sup> vote.

Mr. Moore wonders how much of the savings would be achieved if it were accomplished through a quote process. How much administrative work is there between preparing a competitive sealed bid vs. getting 10 quotations for work? He asked Mr. Welch to summarize the differences for him between bid process and obtaining quotes and if one is particularly better than the other.

Mr. Welch stated it is not unusual for them to ask for quotations to see what it will cost as stated in the purchasing policy for the lower cost items when we know exactly what we need. Contracts or bids are very difficult to do since they need to be reviewed twice before they are released. One of the things he thinks they need to consider while going through this process (particularly with SRF funds) we do two bids one goes through the quotation process as discussed with federal funds. Then let's see what the difference is and he gave an example for the Board. He shared how it could be less expensive without taking the SRF funds. He has been working through this process with Keith. Creating the bids is a very detailed process and he went through the process for the Board including the preparation and review time by legal. Mr. Moore wonders if the process would be the same for quotations. Mr. Welch stated it is not it is a much more informal process. Mr. Welch went through the five criteria in the purchasing policy that are used in awarding the bid, and explained the importance of these criteria in the award process. We are always walking that fine line to

save the taxpayer money. The quotation process is good and saves the Town money and time, but there needs to be a threshold on that.

Mr. Bean agrees with much of what has been said here tonight. The source document is precise and exact and may need some modification, it accounts for the taxpayer well being and the leadership execution of bids or proposals. He thinks for professional services it maybe a different procedure that the Town Manager could provide through his sources. Then going forward the discovery of the difficulty of adding layers, complexities, and reasons why we can't execute, he thinks drives people nuts, whether it's the Boy Scouts or why we can't develop metrics for the reimbursement from the State, he thinks that is the essence of leadership and he commends this Board for taking those steps. But he thinks simplicity, the absence of complexity, having transparency, the taxpayer's welfare are best served by coming much closer to the private sector in how we do things.

Mr. Pierce thinks the bid process is a good vehicle since it really opens up to the taxpayer what is going on. It has the appearance that we are looking for the best deal and it shows the taxpayers that we are doing the best we can to get the best deal possible.

Mr. Nichols has a couple of objections that go to the dialogue that's taking place. He has several suggestions; first, that if someone wants to suggest an amount/limit he is open to changing the \$5,000 to \$15,000. He also thinks that if they could agree on some things then Mr. Welch can go off and make progress.

Chairman Griffin confirmed with the Board that there was a consensus amongst the Board to raise the limit from \$5,000 to \$15,000 for the bid process.

Mr. Nichols second suggestion in regards to engineer services involving federal money, he would suggest that Mr. Welch draw up something maybe three sentences or so stating that bids are not required on engineering or consulting projects where federal money prohibits the use of a competitive bid procedure. When we have not gone through the bidding process for that reason and there is an award, it has to be vetted in a public meeting. It is important that whatever they come up with they adhere to it.

Chairman Griffin confirmed that there was a consensus amongst the Board in regards to the suggestion Mr. Nichols made above.

Mr. Nichols additional suggestion there is the language in 718-8 that requires advertising all bids in a local newspaper if over \$5,000.00 he is not sure if we do this or if it's necessary. Mr. Welch stated that they do advertise but it is expensive and by placing it on the website we have received better responses. Mr. Nichols would suggest removing the requirement in 718-8 to advertise all bids in the local newspaper and put some alternative language such as using the website and actively seeking out vendors. Mr. Moore asked if Mr. Nichols wants to change the word "shall" to "may" or change all the language in 718-8. Mr. Nichols is suggesting that the Town Manager draft new language for this section. Mr. Welch stated that they do all this now but also advertise in the newspaper since it is required. Mr. Moore confirmed with Mr. Welch that we do maintain a list of vendors including email addresses to communicate this type of information with them. Mr. Pierce thinks that putting an ad in the paper might not work for everyone now of days. He thinks this is a smart way to go.

Mr. Nichols stated that one of the things that hurt you in bids is when you unnecessarily start inserting proprietary/restrictive language. He would like to see language added that states

proprietary or restrictive language that limits the field of qualified vendors should be avoided. He gave an example of the bid for laptops about a year ago.

Mr. Moore commented that even with that, if it's not restrictive in the initial bid document and you choose vendor a, b, c; as we saw a case of this last week. A vendor is not going to throw a proprietary device at you that is going to then force you back to that same vendor for repair or maintenance purposes. He understands where Mr. Nichols is coming from and it makes sense but it is not necessarily going to solve all their problems with ongoing maintenance or repairs.

Mr. Nichols has no issue with us sitting here and making a decision like the one they did with the skate park and it followed the existing policy. Another scenario is when someone does not want to put out a bid and it requires the Selectmen's approval if it is over a certain threshold. He thinks they need to have something that is a little more stringent than just the majority of the Selectmen, if it is over a threshold of \$100,000 or whatever it is. Maybe this would be the written justification. He will throw the threshold of \$100,000 out there, does anyone have any thoughts on a higher threshold or the 2/3<sup>rd</sup> majority vote suggested earlier.

Mr. Bean stated that a lot of these decisions in terms of bidding and the terms of professionals who are doing the work; we are reinventing the wheel that professionals are capable of doing and serving in this Town. He thinks Mr. Nichols makes excellent points and of course, on the higher amounts you want more intense scrutiny. He commented that they can keep talking about this but again he thinks the source document is great and needs to be expanded for professional services. He thinks the Board can come to some kind of consensus and move on.

Chairman Griffin asked what Mr. Bean feels about the 2/3<sup>rd</sup> vote to override the competitive bid process on the larger threshold projects. Mr. Bean does not have a problem with the 2/3<sup>rd</sup> majority vote for this. Mr. Pierce agrees with Mr. Nichols and Mr. Bean on this. Mr. Moore is ok with the super majority required, if the Board does not follow the policy. And that there be a pre-approval process of voting of "not going to bid", this would allow a flexibility of some sort. Mr. Nichols would add that it be some sort of written justification provided to the Board prior to the 2/3<sup>rd</sup> majority vote. The Board agreed that the higher threshold should be \$50,000.

Mr. Nichols pointed out that there is also a Town Manager's purchasing policy on the website in addition to this one. It was discussed and agreed that there are no differences between the policies and that there should only be one and it should be the chapter 718. Mr. Welch agreed with the Board and this will be taken care of.

#### Other Old Business

Mr. Pierce has another Selectmen's goal to discuss. He thinks they should get this IT Committee running sooner rather than later since they are already redesigning the website. He thinks Mr. Bean would be a good person who would think outside the box on this one. He thinks the Board should form this committee tonight. Mr. Moore pointed out that it is on the agenda for next week.

Mr. Nichols would like to give the Board an update on what is going on with SB228, which is Senator Stile's bill to repeal spiking assessments. It was passed by the Senate, but the House amended the bill to continue the spiking assessments. The House amendment



language includes: assessing the municipalities for the entire present value of all end of career payments (sick, vacation, any other payments associated with the retirement of the employee). The bill does not have an assessment on overtime, it does not have an assessment on details and does not have the over 125% threshold of previous bills, where you did not start the assessment until over that. It does give you credit for the employer contribution but not for the employee contribution, which is 11%. The result is that we will now have individuals, who will generate a spiking assessment, that did not before. The Town would be worse off with Senator Stile's bill with amendment of the House then we would if nothing happened. Mr. Nichols has discussed this with individuals associated with this bill and he has expressed to them that the Town would prefer for nothing to happen as an alternative to this House amendment. Mr. Pierce asked him if he wants the Board comments on this. Mr. Nichols would be speaking on behalf of the Board, so yes. Chairman Griffin has spoken to Senator Stiles and she is very upset about this. Chairman Griffin confirmed that everyone on the Board agrees with Mr. Nichols on this and he can continue to represent the Board on this topic.

Chairman Griffin has a question raised by a citizen and the charging of a fee for the rooms at the Library. He wonders if it has always been that way or is it new. Mr. Welch stated that the Library Trustees have the authority to do this and he is not sure if this has been done in the past or not. It was suggested that this person contact the Library Trustees.

## VII. New Business

1. First Half Tax Warrant – Discussed and approved under Appointments.

### Other New Business

Mr. Nichols commented on an item in their box that the Beach Village District has requested that the Board file a motion with the Zoning Board that has to do with the approval of a Hookah Lounge. Chairman Griffin commented that he talked with Chuck and he believes that the Precinct Commission is going to do this instead. Chairman Griffin suggested to Mr. Rage that he follow up with Mr. Welch. Mr. Welch thinks they have standing to appeal this decision.

Mr. Nichols would like to give the Board a little heads up on some interviewing that he and Dick Desrosiers have done with some energy companies. They have discovered some substantial cost savings and the schools are already taking advantage of this. Mr. Nichols and Mr. Desrosiers have agreed on a company. Mr. Desrosiers is going to request an appointment at the meeting next week to provide the Board with an overview on this.

Mr. Pierce's feeling is that since the Precinct is right there they have the knowledge to pursue this. Chairman Griffin has discussed this with the Chairman of the Zoning Board and that he feels the criteria have been met on this.

## VIII. Consent Agenda

1. EOP Annual Concurrence
2. Permit for Use of Town Property – Green @ Depot Square – Chez Boucher 05/28
3. One Day Entertainment License – Green @ Depot Square – Chez Boucher 05/28
4. Street Closure – Pine Road – 05/27
5. Raffle Permit – Professional Firefighters L-2664 – McGuirk's 95 Ocean /Blvd 05/31

6. ~~Special Yard Sale — Boy Scouts Troop 177 — 3 days at St. James Lodge — 6-1 to 6-3~~

Discussion

Mr. Page would like to comment on the Boy Scout yard sale permit, the yard sale permit came into place for traffic purposes, and this will not be a problem at the Masonic Lodge. He shared further information on how this has taken place for several years. Mr. Moore pointed out that there was a question raised by the Manager that says they might not want to approve the request but that would not necessarily mean that they denied the request. It had also been suggested that they will look at the issue of what might be done with this process.

Mr. Moore MOTIONED to remove item #6 from the Consent Agenda. Chairman Griffin SECONDED.

VOTE: 5-0-0

Discussion on other items

Mr. Nichols confirmed that item #2 is open to the public and has been approved by the necessary department heads.

Mr. Pierce MOTIONED to MOVE the consent Agenda with the exception of item #6, which was removed above by motion. Mr. Moore SECONDED.

VOTE: 5-0-0

IX. Selectmen's Closing Comments

Mr. Nichols thinks that the way they have been handling discussing items that are the Selectmen's goals is a good one.

X. Adjournment

Mr. Moore MOTIONED to ADJOURN the public meeting. Mr. Pierce SECONDED.

VOTE: 5-0-0

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Chairman